

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARIJA PAUNOVIC and DUSAN  
PAUNOVIC, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

OBI SEAFOODS LLC and OCEAN  
BEAUTY SEAFOODS LLC,

Defendants.

CASE NO. C21-884 MJP

ORDER DENYING MOTION FOR  
RECONSIDERATION

This matter comes before the Court on Defendants' Motion for Reconsideration. (Dkt. No. 177.) Having reviewed the Motion and all supporting materials, the Court DENIES the Motion.

Under the Local Civil Rules, "[m]otions for reconsideration are disfavored." Local Civil Rule 7(h)(1). "The court will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence." Id.

1 Defendants contend that the Court committed manifest error in its decision on Plaintiffs'  
2 Motion for Partial Summary Judgment re: Employer of Former Icicle Workers by contradicting  
3 an earlier-issued Order For Further Briefing. (Dkt. No. 177 (citing Order for Further Briefing  
4 (Dkt. No. 162).) Defendants point out that in its Order For Further Briefing, the Court stated, in  
5 part:

6 in order to ensure a proper class notice is issued, the Court believes it should now  
7 determine as a matter of law whether these individuals were Defendants' employees. If  
8 the individuals were Defendants' employees then they will be included in the Quarantine  
Class. But to send these individuals class notice before making this determination appears  
inefficient, confusing, and potentially prejudicial to their due process rights.

9 (Order For Further Briefing at 2 (Dkt. No. 162).) Defendants take issue with the Court's  
10 determination that although Plaintiffs were not entitled to summary judgment on this issue, the  
11 Icicle workers are part of the quarantine class. (Mot. at 3.) Specifically, Defendants maintain that  
12 the law of the case requires the Court to first find as a matter of law that the Icicle workers to  
13 Defendants' employees before they could be included in the quarantine class. (Id. at 3-4.)

14 The Court understands Defendants' position and its reading of the Order For Further  
15 Briefing. But the Court disagrees that Order For Further Briefing made a specific finding that  
16 Plaintiffs had to prove as a matter of law that the Icicle workers were Defendants' employees to  
17 be included in the quarantine class. The Court's Order stated the Court's "belie[f]" that it should  
18 determine as a matter of law whether the Icicle workers Defendants' employees before issuing  
19 them class notice and that this "appear[ed]" to be the proper approach. (Dkt. No. 162 at 2.) But  
20 the Court did not conclude that such a determination was necessary as a matter of law before  
21 including these individuals in the class. As the Court explained in its Order on Summary  
22 Judgment: "for purposes of class certification, Plaintiffs need only show by a preponderance of  
23 the evidence that this group of individuals are properly part of the class, using 'any admissible  
24

1 evidence.” (Order on Motion for Summary Judgment at 14 (Dkt. No. 175) (quoting Olean  
2 Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC, 31 F.4th 651, 665 (9th Cir. 2022)).  
3 Plaintiffs met their burden, as the Court concluded. (See id. at 13-16.) And it was unnecessary to  
4 resolve conclusively the ultimate legal question of employer status in order to determine whether  
5 the class should include these individuals. See Amgen Inc. v. Connecticut Ret. Plans & Tr.  
6 Funds, 568 U.S. 455, 466 (2013) (“Merits questions may be considered to the extent—but only  
7 to the extent—that they are relevant to determining whether the Rule 23 prerequisites for class  
8 certification are satisfied.”). Ultimately, all members of the quarantine class will have to  
9 demonstrate that one or both of the Defendants were their employers to prevail on their claims.  
10 And Defendants may prevail on their defense. But that determination is not necessary to make to  
11 resolve whether the Icicle workers are part of the quarantine class.

12 The Court also rejects Defendants’ request to revise the class notice to specify that the  
13 Icicle workers only “may be” part of the quarantine class. The Court has already held that the  
14 Icicle workers are part of the class and they should receive the notice as drafted. (See Dkt. No.  
15 175 at 14-16.) Defendants may prevail on their position that these individuals are not entitled to  
16 relief. But they are properly part of the class for notice purposes. And in light of the evidence  
17 presented in the Motion for Summary Judgment, the Court no longer has any concerns about the  
18 efficiency, clarity, or prejudice in providing notice in the form the Court approved.

19 The clerk is ordered to provide copies of this order to all counsel.

20 Dated March 9, 2023.

21 

22 Marsha J. Pechman  
23 United States Senior District Judge  
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